

REMARKS

This Response is to the non-Final Office Action of November 30, 2004. Claims 1 to 22 were pending previously in this application. In this Amendment, Claims 1, 11 and 18 have been amended. No new matter has been added. Applicant respectfully submits that the rejections should be withdrawn for at least the reasons set forth below.

In the Office Action, Claims 1-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,380,367 to Ranney ("*Ranney*") in view of U.S. Patent No. 6,138,905 to Hachenski ("*Hachenski*"), U.S. Patent No. 5,896,686 to Howes ("*Howes*") and U.S. Patent No. 5,375,704 to Focke et al. ("*Focke*"). Applicant respectfully disagrees with the rejections and request that they be withdrawn for the following reasons.

Claims 1, 11 and 18 have been amended. The amended claims provide a gum package having giveaway information, including in part, a removable end wall having an inner surface no part of which is visible until the end wall is at least partially and permanently removed from the body, and the body stores a gum after the end wall is removed from the body. In contrast to the presently claimed invention, *Ranney* fails to teach or suggest a gum package having giveaway information. Neither *Hachenski*, *Howes* and/or *Focke* disclose or suggest the claim elements of a removable end wall having an inner surface of which no part is visible until the end wall is at least partially and permanently removed from the body, and the body stores a gum after the end wall is removed from the body.

Applicant respectfully submits there is no motivation to combine *Ranney* with *Hachenski*, *Howes* and/or *Focke* as the references teach away from the presently amended claims. Applicants respectfully submit that an artisan of ordinary skill would not have been motivated to combine and/or modify the teachings of *Ranney* with *Hachenski*, *Howes* and/or *Focke* in the first place. Indeed, the Patent Office merely cites *Hachenski*, *Howes* and *Focke* regarding redeemable and giveaway information without providing proper motivation in *Hachenski*, *Howes* and/or *Focke* to combine the cited features with the gum package in *Ranney*.

Ranney is directed to a chewing gum package and fails to teach or suggest a gum package having giveaway information, and therefore is clearly deficient on its own.

Hachenski is cited merely for disclosing printed matter on the inner surface of its lid. Col. 6, ln. 20-23. Further, *Hachenski* teaches away from a package with a removable top where

the package can continue to store the product. *Hachenski* teaches that the hingedly attached, moveable cover is to remain attached to the packaging so that it can be viewable with the package and contents therein. Col. 6, ln. 12-39. Moreover, the package in *Hachenski* is a disposable, one-time use package, and is not designed to store products once the package is opened. Accordingly, *Hachenski* teaches away from a package having a removable end wall, and where the product package stores the product therein after the end wall is removed from the body.

Howes is merely cited for disclosing the equivalence of a promotion and a giveaway. *Howes* teaches away from a package having a removable end wall where the inner surface is not visible until the end wall is at least partially and permanently removed from the body. Instead, *Howes* discloses that the consumer can view at least a portion of an inner surface of its cap prior to removing the cap from the bottle. Col. 7, ln. 1. Clearly, *Howes* teaches away from the claimed invention in that in *Howes* a consumer can view the end wall prior to removing the end wall, while in the present invention, a user cannot view the end wall until it has been at least partially and permanently removed from the body.

Additionally, *Howes* teaches away from a package where the body stores a gum after the end wall is removed from the body. The cap in the product package in *Howes* retains the product in the bottle prior to opening. However, when the cap is removed, the liquid product is exposed to air and therefore has a limited consumable life. While plastic bottles allow for the caps to be replaced, such action would not allow the consumer to instantly redeem the replaced cap for a prize as in the presently claimed invention. Again, clearly the product package in *Howes* teaches away from the presently claimed invention.

Focke is cited merely for disclosing a package with giveaway information provided on a removable insert. *Focke* teaches a product package with a hinged lid connected thereto. Col. 1, ln. 7-9. Therefore, *Focke* does not teach a product package with a removable end wall. Accordingly, *Focke* does not remedy the deficiencies of the other references.

Although Applicants submit that what the Patent Office has done is to rely on hindsight reasoning to justify the combination and/or modification of *Ranney*, *Hachenski*, *Howes*, and *Focke*, even if combinable, *Ranney*, *Hachenski*, *Howes*, and *Focke* fail to disclose or suggest the claimed invention and thus fail to render the claimed invention obvious.

As discussed above, the elements of Claims 1, 11 and 18, as well as the claims that depend therefrom, set forth structural limitations that are not taught or suggested by *Ranney*, *Hachenski*, *Howes*, and *Focke*, either alone or in combination. It is axiomatic that for an obviousness rejection, each element of the claim must be taught or suggested by at least one of the references. In summary, the cited art fails to meet this test at least with regard to a gum package having giveaway information, including in part, a removable end wall having an inner surface no part of which is visible until the end wall is at least partially and permanently removed from the body, and the body stores a gum after the end wall is removed from the body.

Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 1-22 be withdrawn

For the foregoing reasons, Applicant respectfully submits that the above-identified patent application is now in a condition for allowance and earnestly solicits reconsideration of same.

Respectfully submitted,

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